REMARKS

In response to the Final Office Action mailed September 25, 2007, Applicant respectfully requests reconsideration. Claims 1-22 were previously withdrawn from the application. Claims 23-44 were last presented for examination. In the outstanding Office Action, claims 23-44 were rejected. Claim 23 has been amended in this response and no claims have been added. Thus, upon entry of this paper, claims 23-44 will remain pending in this application. Of these twenty-two (22) claims, one claim (i.e., claim 23) is independent.

Claim Rejections

In the outstanding Office Action, claims 23, 25-31, 33-42 and 44 were rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 914,546 (Amos); claim 24 was rejected under 35 U.S.C. §103(a) as being unpatentable over Amos in view of US Patent No. 6,363,698 (Swain); claims 32 and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Amos in view of US Patent No. 2,130,442 (Worcester).

35 U.S.C. § 103 Rejections

The Examiner has rejected claims 23, 25-31, 33-42 and 44 under 35 U.S.C. § 103 (a) as being unpatentable over Amos. Reconsideration is respectfully requested.

Amos discloses a saddle tree, constructed wholly of resilient metal, stamped or otherwise formed to a proper contour.[1] In particular, Amos discloses a saddle tree with a seat **1** and two strips **14** or members of resilient metal that extend from points adjacent to the rim of the cantle **3** to a point adjacent to the pommel **4**, where the two strips **14** or members merge into a third member or strip **15**.[2] Further, Amos discloses the two strips **14** and strip **15** are secured to the seat **1** of the saddle tree by rivets **16** and **17**, respectively.[3]

[1] Amos at page 1, column 1, lines 24-25.
[2] *Id.* at Figs. 1, 6 and 7; and page 1, lines 76-82.
[3] *Id.* at Fig. 1, 6, 7 and 8; and page 2, lines 47-63.

The outstanding Office Action asserts that Applicant has misunderstood or misinterpreted Amos. In particular, the outstanding Office Action makes reference to rigidity in Amos relates to the girth loops and straps. However, as discussed below, the Applicant respectfully disagrees with these assertions.

Applicant respectfully contends that the correct grammatical interpretation of Amos is that Amos requires (at page 1, lines 44-48): "in order to cause the *tree* to possess sufficient rigidity to prevent undue yielding...the pommel has combined with it.... an arch plate." Amos is clearly referring to rigidity of the tree per se, not just holding the tree on the horse in an unyielding manner. The arch plate serves to "strengthen the pommel against yielding" (page 2, lines 18-20) as it is manufactured of thick (Fig 2) metal (page 2, line 16). Additionally, the tree body is formed with reinforcing wires 5 and 6 to "reinforce the tree against yielding (page 1, lines 100-103) and wires or bars 18 are provided between member 15 to prevent spreading (page 2, lines 68-73). It would be clear to the person skilled in the art that Amos fundamentally teaches a rigid tree.

It is well known that a thin sheet of metal will bend and crease easily. Once bent, it will not, typically return to its original shape and the deformity will remain unless the metal is hammered back into shape. Accordingly, while the sheet metal may be *per se* "resilient" if it is to function as a basis for a saddle, it needs to be provided with a rigid frame and rigid support such that the tree body as a whole is rigid. If it is not rigid, it will yield under the pressures of riding and once deformed will remain deformed potentially causing substantial injury to the horse. One skilled in the art will appreciate that although the saddle tree of Amos is fabricated from sheet metal, the tree body as a whole must be made rigid to provide sufficient support for the sheet metal to resist damage to the sheet metal and injury to the horse.

The outstanding Office Action asserts that the tree body 1 of Amos is flexible since it is formed of resilient metal and comprises a V-shaped strengthening bar 14 with forks directed towards the cantle end of the saddle tree. The outstanding Office Action further asserts that while the bar 14 in Amos is not Y-shaped, it would have been obvious to substitute a Y shaped

bar for the V-shaped bar in Amos to arrive at the present invention[4]. Applicant respectfully disagrees with the outstanding Office Action's characterization of Amos and its application to the present invention and respectfully traverses this rejection as follows.

With respect to the strengthening bar, Applicant respectfully contends that even if Amos can be considered to include a strengthening bar in the form of strips 14, they are part of a greater unitary structure combined strips 15. It is the combined structure 14, 15 which needs to be compared with the Y-shape of the present invention's strengthening bar. Strips 14, 15 can be considered to be two joined V-shaped bars or an X-shaped bar. However, because the two V-shapes are directly connected, any force on, for example, one of strips 15 is transmitted to strips 14.

In contrast thereto, the present invention, by having a Y-shaped strengthening bar, disconnects forces impacting upon the pommel region of the saddle tree thereby preventing these forces from being transmitted through the "bar" to the cantle end of the saddle tree. Accordingly, a Y-shaped strengthening bar is not functionally equivalent to an X-shaped bar. The same distinction applies with respect to Swain. A substantial impact upon one of the strips 15 of Amos or the equivalent in Swain will result in a permanent twisting of the saddle tree. In contrast, in the present invention, the disconnection allowed by the use of a Y-shaped bar prevents permanent twisting of the saddle tree, meaning that any twisting of the pommel end side is absorbed and reversible, maintaining the comfortable fit of the saddle on the back of the horse.

Independent claim 23 has been amended to more clearly set forth this distinction and now reads:

> [A] saddle tree comprising a tree body having a pommel end and a cantle end, the tree body being formed from *a flexible material allowing lateral flexing of the tree and a Y-shaped strengthening bar wherein the forks of the Y-shape are directed towards the cantle end of the saddle tree.* (emphasis added)

[4] See Office Action paragraph 2

Applicant respectfully asserts that Amos does not disclose a tree body formed from a flexible material that allows lateral flexing of the tree body and a generally Y-shaped strengthening bar. Accordingly Applicant contends that Amos does not disclose, teach or suggest the present invention as recited in Independent claim 23 as amended and that claim 23 is patentable. Applicant therefore requests that rejection of claim 23 under 35 U.S.C.§ 103 be withdrawn.

Moreover claims 25-31, 33-42 and 44 depend from claim 23 and, accordingly, are also patentable for at least the same reasons as claim 23 is patentable.

Dependent Claims

The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter, which makes them *a fortiori* and independently patentable over the art of record. Accordingly, Applicants respectfully request that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Applicant reserves the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application, cancellations and amendments of above claims, therefore, are not to be construed as an admission regarding the patentability of any claims and Applicants reserve the right to pursue such claims in a continuation or divisional application.

Conclusion

In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

A fee for a one month extension is due with this response. Accordingly, please charge our Deposit Account No. 22-0185, under Order No. 21046-00041-US1 from which the undersigned is authorized to draw.

Respectfully submitted,

Dated: January 25, 2008

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Application No. (if known): 10/511,717 Attorney Docket No.: 21046-00041-US1

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Amendment After Final Action Under 37 C.F.R. 1.116 (3 pages)